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April 12, 2016

VIA ECF

Amy C. Nerenberg, Esq.
Acting Clerk
United States Court of Appeals for the Eleventh Circuit
56 Forsyth Street, N.W.
Atlanta, GA 30303-3147

Re: G4S Regulated Security Solutions, A Division of
G4S Secure Solutions (USA) Inc., f/k/a the
Wackenhut Corporation v. NLRB
Case No. 15-13224 and 15-14018

Dear Ms. Nerenberg:

Pursuant to FRAP 28(j), G4S Regulated Security Solutions, A Division of G4S Secure Solutions (USA) Inc. ("G4S") hereby responds to the National Labor Relations Board's ("Board") letter, dated April 7, 2016, advising the Court of Securitas Critical Infrastructure Services, Inc. v. NLRB, 14-3216 (8th Cir. Mar. 24, 2016). As explained below, Securitas is inapposite to the issues before this Court.

The lieutenant who testified in the Securitas case stated that "essentially every aspect of his job was controlled by company and client rules, policies and procedures..." and that he "would either receive approval from a higher authority, or that his decisions were so routine, clerical or ministerial as to not warrant serious judgment." Id. at slip op. 7. Further, the court noted the employer failed to present *any* specific evidence establishing a lieutenant exercised independent judgment. Id. at slip op. 9-10.¹

That is a far cry from the instant case in which Project Manager Mareth testified extensively about the manner in which lieutenants exercised independent judgment – testimony corroborated by the very lieutenants who initiated the proceedings before the Board. (G4S Reply

¹ Unlike here, the employer in Securitas abandoned any argument the lieutenants exercised independent judgment in disciplining, promoting, and assigning employees.



Ms. Amy Nerenberg
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Brief, at 5-8). Moreover, although the Board asserts G4S lieutenants are required to follow disciplinary policies in effectuating discipline, this argument relies on the faulty premise that whenever an employer has detailed policies in place, *nobody* can exercise discretion because a policy must govern.² This, obviously, makes no sense.

In sum, Securitas is not controlling in the instant case, and should not be relied upon.

Respectfully submitted,

JACKSON LEWIS P.C.

Jonathan J. Spitz
Daniel D. Schudroff

cc: All Counsel via ECF

4813-2779-6528, v. 1

² The Securitas court noted there is no "specific requirement [on an employer] to offer examples of a lieutenant's exercise of independent judgment...." Id. at slip op. 8. This finding contradicts the Board's argument in its Opposition Brief to this Court that an employer must cite specific examples to satisfy its evidentiary burden of establishing supervisory status: "[Project Manager] Mareth's testimony lacks the specific evidence or examples necessary to show that lieutenants possess actual disciplinary authority over security officers." (Opposition, at 21).

**IN THE UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT**

G4S REGULATED SECURITY SOLUTIONS,)
A Division of G4S SECURE SOLUTIONS (USA))
INC., F/K/A THE WACKENHUT)
CORPORATION,)

Petitioner/Cross-Respondent,)

Case No. 15-13224

vs.)

NATIONAL LABOR RELATIONS BOARD,)

Respondent/Cross-Petitioner.)

**PETITIONER/CROSS-RESPONDENT'S AMENDED CERTIFICATE OF
INTERESTED PERSONS AND CORPORATE DISCLOSURE
STATEMENT**

The undersigned counsel of record for Petitioner/Cross-Respondent G4S Regulated Security Solutions, A Division of G4S Security Solutions (USA) INC., F/K/A The Wackenhut Corporation, certifies that the following listed parties have an interest in the outcome of this case:

1. Cherof, Edward M. (Attorney for Petitioner)
2. Diaz, Margaret J. (Regional Director National Labor Relations Board, Region 12)
3. Frazier, Thomas (Charging Party)

4. G4S Regulated Security Solutions, A Division of G4S Security Solutions (USA) INC., F/K/A The Wackenhut Corporation (Petitioner) (GFSZY)
5. Hirozawa, Kent Y. (Member)
6. Jackson Lewis P.C.
7. Mack, Cecil (Charging Party)
8. Miscimarra, Phillip A. (Member)
9. National Labor Relations Board
10. Pearce, Mark Gaston (Chairman)
11. Plass, Shelley B. (Counsel for the Acting General Counsel National Labor Relations Board)
12. Schudroff, Daniel (Attorney for Petitioner/Cross-Respondent)
13. Schwartz, Jeffrey A. (Attorney for Petitioner/Cross-Respondent)
14. Spitz, Jonathan J. (Attorney for Petitioner/Cross-Respondent).

Pursuant to Eleventh Circuit Rules 26.1-1, 26.1-2, 26.1-3, and 28-1(b), and Fed. R. App. P. 26.1, G4S identifies the following subsidiaries, conglomerates, affiliates and parent corporations:

1. G4S Regulated Security Solutions is a division of G4S Secure Solutions (USA) Inc. G4S Secure Solutions (USA) Inc. is a wholly-owned subsidiary of G4S Holding One, Inc. (“G4SHO”), a Delaware

corporation.

2. G4SHO is a wholly owned subsidiary of G4S US Holdings Limited (G4SUSH), a British company. G4SUSH is a wholly owned subsidiary of G4S Corporate Services Limited (G4SCS), a British company. G4SCS is a wholly owned subsidiary of G4S plc, a British company publicly traded on the London Stock Exchange. It is also publicly traded on the Over the Counter (OTC) Exchange in the United States using the ticker symbol GFSZY.

Respectfully submitted this 2nd day of October, 2015.

By: Jeffrey A. Schwartz
Jeffrey A. Schwartz
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Jonathan J. Spitz
Georgia Bar No. 672360

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G4S Regulated Security Solutions, A
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(USA) INC., F/K/A The Wackenhut
Corporation

CERTIFICATE OF SERVICE

I hereby certify that on October 2, 2015, I caused to be served a true and correct copy of the within and foregoing **PETITIONER/CROSS-RESPONDENT'S AMENDED CERTIFICATE OF INTERESTED PERSONS AND CORPORATE DISCLOSURE STATEMENT** via the Court's electronic case filing system which will automatically serve the following counsel of record:

Linda Dreeben, Esq.
Deputy Associate General Counsel
Usha Deenan, Esq.
Gregoire Sauter, Esq.
National Labor Relations Board
Appellate Court Branch
1015 Half St., SE
Washington, DC 20570
linda.dreeben@nrlrb.gov

I hereby certify that on October 2, 2015, I caused to be served a true and correct copy of the within and foregoing **PETITIONER/CROSS-RESPONDENT'S AMENDED CERTIFICATE OF INTERESTED PERSONS AND CORPORATE DISCLOSURE STATEMENT** via electronic mail and U.S. Mail upon the following:

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